

**RI STATE BOARD OF ELECTIONS
MINUTES OF MEETING (HEARING)
AUGUST 20, 2004**

The Rhode Island State Board of Elections reconvened at 9:39 a.m.. A quorum included Chair Roger Begin, Vice Chair Thomas Iannitti, Commissioners Judith Bailey, John Daluz and Frank Rego. Executive Director Robert J. Fontaine and Counselor Raymond Marcaccio were in attendance, also.

Chair Begin offered that the purpose of the meeting was to accept for consideration a report and recommendation submitted by legal counsel concerning motions and objections heard by the Board on July 20, 2004 in the matter of William Lynch, Chairman of the Rhode Island Democratic Party, vs. the Rhode Island Republican Party and Donald Carcieri Campaign for Governor (see attached). With this, Chair Begin asked Mr. Marcaccio to commence with his presentation to the Board.

At this time, one of the Carcieri Campaign's attorneys, Kate Breslin-Harden, asked to address the Board. She requested that the hearing be postponed for two weeks so that Attorney John M. Harpootian, first vice chairman of the state GOP could continue settlement discussions with Mr. Lynch and his (Lynch's) lawyer, Max Wistow. Mindful of Attorney Breslin-Harden's request, Chair Begin asked Attorney Marcaccio to continue with his presentation.

In his report to the Board, Attorney Marcaccio recommended the following:

- the Respondents' motions to dismiss the complaints filed by Mr. Lynch be denied;**
- the Petitioner's motion to consolidate his complaints of October 18, 2002 and February 17, 2004 be granted;**
- the Petitioner's complaints be stayed; and**
- the Members appoint an independent counsel to investigate the matter before the Board.**

Going forward, Mr. Marcaccio set forth his reasons for the recommendations contained in the Report and Recommendation.

With regard to the Respondents' motions to dismiss, Mr. Marcaccio offered the following:

- the Petitioner's complaints were not fatally flawed and should be stayed;**
- the Board has the authority to conduct a full investigation of campaign expenditures without a majority vote of the Board; and**
- the discovery previously proposed directly upon the Respondents should be withdrawn.**

RI Board of Elections

Minutes of Meeting

8-20-04

Page 2

With regard to the appointment of an independent counsel, Mr. Marcaccio offered that he or she be given 120 days to complete an investigation and that the facts and any evidence be presented at a public hearing conducted by the Board. Specifically, the independent counsel would assist the Board in its rendering of a final determination in the matter

by:

- discovering relevant facts necessary to determine whether the Rhode Island Republican Party (GOP) expended monies (and if so how much) as a party building effort, or to expressly advocate the elections of Donald Carcieri for governor;**
- determining if Rhode Island GOP contributions made to the Carcieri Campaign in the form of television, radio or print advertisements violated RIGL 17-17-25-10.1;**
- concluding if the GOP expenditures were made in cooperation, consultation or in concert with Donald Carcieri and/or his agents;**
- separating “investigatory and inquisitorial” roles from the Board’s adjudicative role, thereby, avoiding the combination of “incompatible functions”; and**
- ensuring that the Members maintain objectivity until all the facts**

have been presented to the Board.

Upon conclusion of Mr. Marcaccio's presentation, Chair Begin offered that he expects the Board to reconvene in the next week or two to discuss the recommendations contained in the "Report" and that the Board would accept the presentation and not ask for any further action at this time. With this, Vice Chair Iannitti spoke: He made a motion to accept Mr. Marcaccio's Report and Recommendation and to return in a week or two to discuss the matters contained in the report. The motion, seconded by Commissioner Rego, carried without opposition.

The plaintiff's lawyer, Attorney Max Wistow, asked to address the Board. Wistow strongly suggested that any independent counsel be selected from outside the state in order to assure impartiality. To this, the Respondent's lawyer, GOP Attorney Richard Fleury, offered that Rhode Island has many fine, ethical lawyers, therefore, he urged the Board to appoint from within the state. Chair Begin thanked the lawyers for their suggestions.

At 9:55 a.m. and with no other discussion on the matter, Chair Begin asked that the Board adjourn and reconvene to take up the next matter on the Board's agenda. With this, Vice Chair Iannitti made the motion, seconded by Commissioner Rego. The motion carried unanimously. (Note: The Board took a short break before taking-up the next matter).

ATTEST:

Frances A. Keating, Coordinator, date
Special Projects